



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

*271 Cadman Plaza East
Brooklyn, New York 11201*

April 30, 2020

By ECF

Honorable Rachel P. Kovner
United States District Judge

Honorable Roanne L. Mann
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Chunn et al. v. Warden Derek Edge*,
Civil Action No. 20-cv-1590 (Kovner, J.) (Mann, M.J.)

Dear Judge Kovner and Judge Mann:

Pursuant to the Court's April 29 Order, the parties provide the following status report:

I. Paper Copies of the Sick Call Requests

Following Petitioners' request for the documents and a conferral between the parties, Respondent agreed to produce paper sick call requests, subject to the same redactions as the already-produced electronic sick call requests, for the two-week period from April 25, 2020 to May 9, 2020. On April 29, Respondent produced sick-call requests submitted by paper from April 24, 2020 to April 28, 2020 bearing Bates Stamp numbers BOP_SCR 889-922.

II. Proposed Schedule in Anticipation of the Preliminary Injunction (PI) Hearing

The parties request the Court's endorsement of the proposed schedule for pre-hearing submissions:

Action	Deadline
Petitioners will serve their witness list and exhibit list for the PI Hearing on Respondent by:	Thursday, May 7
Respondent will serve his witness list and exhibit list for the PI hearing on Petitioners by:	Friday, May 8

The parties will file their final* witness lists and exhibit lists, respectively, by:	Saturday, May 9
The parties to file motions <i>in limine</i> , if any, by:	Sunday, May 10
The parties to file oppositions to the motions <i>in limine</i> , if any, by:	Monday, May 11

*The parties submit that no changes may be made to the as-filed witness list unless good cause is shown. Further, the parties agree to make best efforts to expeditiously identify their proposed witnesses to their adversary (before the above-referenced deadlines) in order to avoid any logistical hurdles or prejudices to the other side.

III. Depositions of Petitioners Rabadi, Lopez, and Hair

In an effort to avoid unnecessary motion practice, the parties have entered into a compromise regarding the depositions of incarcerated Petitioners Rabadi, Lopez, and Hair with respect to the PI Hearing. Respondent agrees to withdraw his notices of deposition for Rabadi, Lopez, and Hair. In return, Petitioners will provide, by May 5, sworn declarations from Rabadi, Lopez, and Hair about their claims and the bases for their testimony in support of their preliminary injunction motion. Petitioners will have the right to call Rabadi, Lopez, and Hair in their case-in-chief, and Respondent will be able to cross-examine these witnesses at that time. In the event that Petitioners do not call Rabadi, Lopez, or Hair as witnesses during their case-in-chief, Respondent will have the right to call Rabadi, Lopez, or Hair as witnesses during his case-in-chief.

Respondent reserves his right to seek to depose any of the other witnesses listed on Petitioners' witness list in advance of the PI Hearing; Petitioners reserve the same right with respect to Respondent's witness list for the PI Hearing.

IV. Outstanding Issues

With respect to any other outstanding discovery issues, the parties continue to confer and will seek judicial intervention if necessary.

The parties thank the Court for its consideration of this matter.

Respectfully submitted,

EMERY CELLI BRINCKERHOFF
& ABADY LLP

By: /s/
Katherine R. Rosenfeld
O. Andrew F. Wilson
Samuel Shapiro
Scout Katovich
600 Fifth Avenue, 10th Floor
New York, NY 10020

CARDOZO CIVIL RIGHTS CLINIC
Betsy Ginsberg
Cardozo Civil Rights Clinic
Benjamin N. Cardozo School of Law
55 Fifth Avenue, 11th Floor
New York, NY 1003
(212) 790-0871

Alexander A. Reinert
55 Fifth Avenue, Room 1005
New York, NY 1003
(212) 790-0403
Attorneys for Petitioners and Putative Class

RICHARD P. DONOGHUE
United States Attorney
Counsel for Respondent
Eastern District of New York
271-A Cadman Plaza East, 7th Fl.
Brooklyn, New York 11201

By: _____ /s/

James R. Cho
Seth D. Eichenholtz
Joseph A. Marutollo
Paulina Stamatelos
Assistant U.S. Attorneys
(718) 254-6519/7036/6288/6198
james.cho@usdoj.gov
seth.eichenholtz@usdoj.gov
joseph.marutollo@usdoj.gov
pauline.stamatelos@usdoj.gov